

**Kentucky Paint Council
Initial Comments on
Strategic Toxic Air Reduction Regulations**

The following are the Kentucky Paint Council's preliminary comments on the STAR regulations package. These comments are not meant to be comprehensive, but given the tight time frame for review, we felt it was important to offer some initial thoughts before the close of the informal comment period.

Our concerns basically fall into four major categories:

- Process
- Scope
- Compliance
- Resources

Each of these will be addressed in more detail. Most of our members are small to medium sized companies and KPC is concerned that this regulation will have far reaching implications on these types of operations and that this package is being "fast-tracked" and will be in effect before our members are able to assess the impact on their operations.

Process

Based on KPC's initial review, this package constitutes a major rewrite of the local air regulations. It is complicated and requires time for even a technically trained person to digest and understand all of the implications. Therefore, we don't believe that the informal comment period, which closes on October 8 provides sufficient time for thorough review. This is particularly true for our industry because many of our members have limited resources. KPC is concerned that the package is already set in stone and that any industry comments, however well conceived, will simply be dismissed. Given the far reaching consequences of this package we urge the District to allow ample time for input from all sectors of the public, and to set up a process that addresses the concerns of all the major stakeholders.

Scope

The discussions concerning air toxics arose out of the West County Task Force that examined the quality of air in Western Louisville. The risk assessment conducted by the task force identified 18 chemicals of concern. This regulatory package goes well beyond the problem identified by the West County Task Force. For example, Regulation 1.07 makes significant changes in the requirements governing startups, shutdowns and malfunctions.

Regulation 1.20 creates a new malfunction prevention program that gives the District wide latitude over a facility's inventory policy and preventative maintenance program. These are new areas of regulation and we would like the District to clarify the need for these changes and under what scenarios they will require a malfunction prevention program. The same questions apply to the new leak detection regulation (Regulation 1.21), which appears to be layered on top of existing federal leak detection requirements. It should be noted that all three of these regulations apply to more than toxic emissions.

We also believe that the overall applicability is somewhat arbitrary. Facilities that make little or no contribution to the problem will be subjected to extensive new requirements, particularly when they expand or modify their businesses. Other facilities that emit one of the 18 chemicals of concern will be subjected to little additional regulation.

Compliance

Perhaps our biggest concern is with compliance. In looking at the regulations in total, it is difficult to know how a facility will be able to tell when they are in compliance. Since the package is based on a health-risk standard there is no guarantee that even with the most stringent pollution control technology that a facility will meet the one in a million benchmark. Several firms that have done some preliminary analysis say they cannot meet the standard. The regulations allow for a less stringent standard but there is no guarantee that the district will approve a less stringent standard and there is no clear criteria for how a company would qualify for a different standard.

Resources

Based on the District's budget and staffing projections, as well as the significant increase in fees, it is clear that the District feels substantial new resources will be required to implement this program. Has any thought been given to the resources that individual companies will need in order to comply? From KPC's standpoint, there will need to be not only substantial capital investment but also significant increases in operating expenses as well. Has the District performed an economic impact analysis on this package? If not, will such an analysis be done and when will it be available?

The Kentucky Paint Council will offer further comments at the appropriate time. The National Paint & Coatings Association is submitting their comments under separate cover and we note for the record that we agree with their comments. We believe this package will be harmful to the coatings industry as it is currently written and we ask that the District rethink its approach on this issue.